IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 647 of 1991

with

CIVIL APPLICATION No 11873 of 2000

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT RAJYA ARDHASARKARI AUDHYOGIK KARMACHARI SANGH

Versus

O N G C & OTHERS

Appearance:

1. Special Civil Application No. 647 of 1991

MR RC PATHAK for the Petitioner

MR KB NAIK for M/S TRIVEDI & GUPTA for Respondent Nos.1-2

MR MUKESH PATEL, AGP for Respondents Nos. 3-5

MR NR SHAHANI for Respondent No. 6

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 29/11/2004

ORAL JUDGEMENT

The petitioner is a labour union. This petition under Article 226 of the Constitution of India has been preferred to espouse the cause of 132 members of the Gram Rakshak Dal, District Ahmedabad (Rural) (hereinafter referred to as "the Gram Dal"). It is not in dispute that the said 132 persons have been selected as the members of the Gram Dal by the District Superintendent of Police, Ahmedabad Rural in exercise of powers conferred upon him by Section 63B of the Bombay Police Act, 1951. The said persons have been called out for guard duty to protect the well sites and other places belonging to the Oil & Natural Gas Corporation, the respondent No.1 herein (hereinafter referred to as "the Corporation").

It is the claim of the petitioner Union that selection of the said persons as members of the Gram Dal and assignment of guard duties on behalf of the Corporation is a camouflage evolved with a view to avoiding employment of the said members as the employees of the Corporation and paying regular salary to them as is being paid to other security guards employed by the Corporation. The Corporation has thus resorted to unfair labour practice. The District Superintendent of Police has not acquired required licence for labour contract. The said members are, therefore, required to be treated as the employees of the Corporation and be paid wages at par with the other security guards and are entitled to other fringe benefits. It is contended that except the selection made by the District Superintendent of Police overall control over the said members is exercised by the Corporation and the wages too are paid by the Corporation.

Identical issues in respect of similarly situated members of Gram Rakshak Dal, District Mehsana arose in Special Civil Application No.3788/1985 and other writ petitions. The said writ petitions have been decided by me by the judgment and order dated 25th/26th November, 2004. For the reasons stated in the said judgment, this petition is dismissed. Rule is discharged. Interim relief is vacated. There shall be no order as to cost. Civil Application stands disposed of.

At the request of the learned advocate Mr.Pathak, it is directed that the status quo obtaining as on today with respect to the said 132 members or such members who

are in service as on today shall be maintained for a period of eight weeks from today on condition that they are within the age limit of 20 years and 50 years.

(Ms. R.M.Doshit, J.)

/sakkaf